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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

October 21, 2002

VIA COURIER

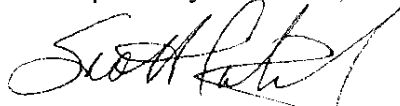
Marlene H. Dortch, Esquire  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Dear Ms. Dortch:

On behalf of Paxson Buffalo License, Inc., licensee of WPXJ(TV), Buffalo, New York, there are transmitted herewith an original and five copies of its *Petition for Rule Making* requesting a change of the station's paired DTV allocation.

If any additional information is needed in connection with this matter, please contact me.

Respectfully submitted,



Scott S. Patrick

Enclosure

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

CCT 21 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.622(b) ) MM Docket No. \_\_\_\_  
Table of Allotments, ) RM-\_\_\_\_\_  
Digital Television Broadcast Stations )  
(Batavia, New York) )  
 )

To: Media Bureau

**PETITION FOR RULE MAKING**  
**TO AMEND THE DTV TABLE OF ALLOTMENTS**

Paxson Buffalo License, Inc. ("Paxson"), licensee of WPXJ(TV), Batavia, New York, by its attorneys and pursuant to Sections 1.401 and 73.622(a) of the Commission's Rules (47 C.F.R. §§1.401 and 73.622(a)), hereby respectfully petitions the Commission to institute a rulemaking to amend Section 73.622(b), the DTV Table of Allotments, by changing the station's paired DTV allocation for the transition period in lieu of the initially allotted channel 53.

Paxson seeks a different DTV channel for WPXJ-DT because the station cannot replicate the authorized WPXJ(TV) service area' with the currently assigned DTV allotment. To achieve replication, Paxson submitted a construction permit application for WPXJ-DT proposing an ERP of 800 kW.<sup>2</sup> Because of constraints imposed by a Letter of Understanding between the United

<sup>1</sup> See FCC File No. BLCT-19990625KF.

<sup>2</sup> See FCC File No. BPCDT-19990326KE

States and Canada,<sup>3</sup> WPXJ-DT would be restricted to merely 25 kW ERP toward Toronto, representing half of the 50 kW minimum ERP that was intended to ensure that “all stations are able to provide DTV service competitively.”<sup>4</sup>

Station WPXJ-DT cannot provide replicated service using the allotted DTV channel, contrary to the Commission’s DTV policies. In adopting replication as the best means for implementing digital television, the Commission wisely stated that its replication policy would “ensure that broadcasters have the ability to reach the audiences that they now serve and that viewers have access to the stations that they can now receive over-the-air.” With the assigned DTV allotment, however, a significant number of existing WPXJ(TV) viewers will not receive digital service. While competitor stations are capable of reaching existing NTSC viewers, Paxson will lose viewers.

Paxson has a strong interest in the implementation of digital television. No other group owner will construct more DTV stations than Paxson’s parent company, Paxson Communications Corporation (“PCC”). DTV is integral to PCC’s strategic plans. Because, however, the current allotment assigned to WPXJ-DT effectively precludes the station from participating in the implementation of digital television, Paxson requests that the Commission assign the station an alternative allotment that would allow replication and ensure continued service to existing viewers.

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<sup>3</sup> Letter of Understanding (“LOU”) between the Federal Communications Commission and Industry Canada (rel. September 29, 2000).

<sup>3</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Sixth Report and Order*, 12 FCC Rcd 14588, ¶ 30 (1997) (“*DTV Sixth Report and Order*”); see also Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418, ¶ 153 (1998).

<sup>5</sup> *DTV Sixth Report and Order*, ¶ 29

WHEREFORE, for the foregoing reasons, Paxson respectfully requests that the Commission initiate a rule making proceeding to amend Section 73.622(b) of its Rules to substitute a new channel for channel 53 for use by WPXJ-DT. The amendment would serve the public interest because existing viewers of WPXJ(TV) could continue to receive service in the digital age.

Respectfully Submitted,

PAXSON BUFFALO LICENSE, INC.

By:

John R. Feore, Jr.  
Scott S. Patrick

Its Attorneys

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Dated: October 21, 2002